IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 27 OF 2006

Miss Manisha Naik
(maiden name),
residing near Ferry
House No.58, Panvel,
Ribandar-Goa. ... Petitioner

versus

1. The Director of Printing
   Press & Stationery,
   Government Printing
   Press, Panaji-Goa.

2. State of Goa, through
   its Chief Secretary,
   having office at
   Secretariat, Panaji-Goa.

3. Shri Edward Pereira,
   resident of ... Respondents

Mr. M. S. Sonak, Advocate for the Petitioner.

Mr. S. S. Kantak, Advocate General with Ms. R. Chodankar, Additional Government Advocate for the Respondent Nos.1 and 2.

Mr. J. Godinho, Advocate for the Respondent No.3.

CORAM : A. P. LAVANDE &
N. A. BRITTO, JJ.

DATE : 19TH APRIL, 2006.

JUDGMENT(Per N. A. Britto, J.)

Rule.

2. Heard forthwith. The petitioner, an apprentice, has challenged the selection of respondent no.3, a non apprentice to the post of Binder, Grade II with respondent no.1. We have heard Mr. M. S. Sonak, the learned Counsel on behalf of the petitioner and Mr. S. S. Kantak, the learned Advocate General on behalf of the respondent nos.1 and 2 as well as Mr. J. Godinho, the learned Counsel on behalf of the respondent no.3.

3. As per the Recruitment Rules applicable to the post of Binder, Grade II, the essential qualifications are that a candidate should have a certificate of successful completion of apprenticeship under the Apprentices Act, 1961 in the trade of a Binder or (1) the candidate should have passed Eighth standard in English and (2) three years experience in the trade. The petitioner qualified for the said post by virtue of the petitioner

having worked as an apprentice and having acquired national apprenticeship certificate, in the Government Printing Press for the period from 7-1-1999 to 31-3-2001 and also having worked with respondent no.1 as a Binder on contract basis from 10-3-2003 to 9-6-2003 and from 16-6-2003 till date and respondent no.3 qualified having produced an experience certificate from M/s Edisson Book Binders having worked for them for 8 years as a Book Binder and also having passed S.S.C. examination.

4. A duly constituted Departmental Selection Committee fixed certain criteria for the purposes of selection of candidates and in that the said Committee allotted 40 marks for practical test in Book Binding, 20 marks for practical test in Glue Binding, 10 marks for paper cutting, 10 marks for cutting of sheets, etc., 5 marks for basic qualification and 5 marks for interview performance. The petitioner obtained 1 mark in basic qualification while respondent no.3 obtained 3 marks for basic qualification. It is contended on behalf of the petitioner that once the qualifications were prescribed under the Rules there was no question of allotting any marks for basic qualifications.

It may be so. However, the fact remains that the petitioner got 20 marks in Book Binding whilst respondent no.3 got 32 1/2 marks. Two other apprentices by name Goltekar and Shetye got 30 marks and 34 marks respectively. This we have indicated only because some of the apprentices did very well at the practical tests. The petitioner got 60 marks in the aggregate while respondent no.3 got 73 1/2 marks in the aggregate. There were in all 6 vacancies, out of which there were 4 vacancies in the general category in which 2 apprentices came to be appointed and one each in OBC category and physical handicapped also went in favour of the apprentices. The respondents in the affidavit-in-reply have set out that they have followed the directives of the Apex Court in the case of **U.P. SRTC** v. **Parivahan Nigam Shishukhs Berozgar Sangh**(AIR 1995 SC 1115) as explained in **U.P. Rajya Vidyut Parishad Apprentice Welfare Association and another** v. **State of U.P. and others**((2000) 5 SCC 438) wherein the Supreme Court has clarified the position thus:-

> "The apprentices have to go through the procedure of examination/interview and that they are however entitled to the

> benefits of entries (1) to (4) laid down in Transport Corporation case(AIR 1995 SC 1115)".

5. It is contended by Mr. Sonak that whatever limited protection was available to apprentices in terms of the said Judgments of the Apex Court is being defeated by subterfuge by holding such tests and on flimsy grounds. We are unable to accept such a submission. What the Apex Court has clearly stated is that the apprentices would be given preference, other things being equal. Once it is not disputed that the petitioner appeared for the test and was unable to compete with others it cannot be said that the selection process was in any manner vitiated. The petitioner was given due opportunity to appear for the tests prescribed by the duly constituted Selection Committee and who after considering the merits of the candidates have selected the candidates including respondent no.3 who on merits was considered more meritorious than the petitioner. There are no allegations of any mala fides being made against the selection process followed by a duly constituted Selection Committee. The Selection Committee in fact appears to have given to the petitioner, being an apprentice, 4 marks but even then the

petitioner could not compete along with others. We cannot substitute our decision with that of a duly constituted Selection Committee made in a very transparent manner in accordance with the guidelines fixed by them as per the rules in force. We, therefore, find no merit in this petition and consequently dismiss the same. Rule is discharged with no order as to costs.

A. P. LAVANDE, J.

N. A. BRITTO, J.

RD